



PATENT  
Docket No.: 57953/1115

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Benfey et al.

Serial No. : 09/265,585

Cnfrm. No. : 4702

Filed : March 10, 1999

For : SCARECROW GENE, PROMOTER AND  
USES THEREOF

Examiner:  
Stuart F. Baum

Art Unit:  
1638

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SUBMISSION OF CORRECTED FORMAL DRAWINGS

Mail Stop RCE

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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JUL 3 2 2003

TECH CENTER 1600/2900

Dear Sir:

Enclosed for filing in the subject application are 100 sheets of corrected formal drawings.

Respectfully submitted,

Date: July 25, 2003

Michael L. Goldman  
Registration No. 30,727

NIXON PEABODY LLP  
Clinton Square, P.O. Box 31051  
Rochester, New York 14603-1051  
Telephone: (585) 263-1304  
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Certificate of Mailing - 37 CFR 1.8(a)

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Alexandria, VA 22313-1450, on the date below.

Date

July 25, 2003  
Jo Ann Whalen



# FEE TRANSMITTAL FOR FY 2003

Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$1,160)

Complete (if Known)	
Application Number	09/265,585
Filing Date	March 10, 1999
First Named Inventor	Philip N. Benfey
Examiner Name	Stuart F. Baum
Art Unit	1638
Attorney Docket No.	57953/1115

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit Account Number 14-1138

Deposit Account Name Nixon Peabody LLP

The Commissioner is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

## FEE CALCULATION

### 1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 750	2001 375	Utility filing fee	
1002 330	2002 165	Design filing fee	
1003 520	2003 260	Plant filing fee	
1004 750	2004 375	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	

SUBTOTAL (1) (\$ 0)

### 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims  -20\*\* =  X  =  Fee Paid

Independent Claims  -3\*\* =  X  =  Fee Paid

Multiple Dependent  X  =  Fee Paid

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 84	2201 42	Independent claims in excess of 3
1203 280	2203 140	Multiple dependent claim, if not paid
1204 84	2204 42	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$ 0)

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1051 130	2051 65	Surcharge - late filing fee or oath
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet
1053 130	1053 130	Non-English specification
1812 2,520	1812 2,520	For filing a request for <i>ex parte</i> reexamination
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action
1251 110	2251 55	Extension for reply within first month
1252 410	2252 205	Extension for reply within second month
1253 930	2253 465	Extension for reply within third month
1254 1,450	2254 725	Extension for reply within fourth month
1255 1,970	2255 985	Extension for reply within fifth month
1401 320	2401 160	Notice of Appeal
1402 320	2402 160	Filing a brief in support of an appeal
1403 280	2403 140	Request for oral hearing
1451 1,510	1451 1,510	Petition to institute a public use proceeding
1452 110	2452 55	Petition to revive unresponsive
1453 1,300	2453 650	Petition to revive abandoned
1501 1,300	2501 650	Utility issue fee (or reissue)
1502 470	2502 235	Design issue fee
1503 630	2503 315	Plant issue fee
1460 130	1460 130	Petitions to the Commissioner
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)
1806 180	1806 180	Submission of Information Disclosure Stmt
8021 40	8021 40	Recording each patent assignment per property (times number of properties)
1809 750	2809 375	Filing a submission after final rejection (37 CFR 1.129(a))
1810 750	2810 375	For each additional invention to be examined (37 CFR 1.129(b))
1801 750	2801 375	Request for Continued Examination (RCE)
1802 900	1802 900	Request for expedited examination of a design application

Other fee (specify) \_\_\_\_\_

\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$1,160)

## CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

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☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) \_\_\_\_\_

July 25, 2003  
Date

Jo Ann Whalen  
Signature

Typed or printed name

## SUBMITTED BY

Name (Print/Type)	Michael L. Goldman	Registration No. (Attorney/Agent)	30,727	Complete (if applicable)
Signature	<i>Michael L. Goldman</i>	Telephone	(585) 263-1304	Date
				July 25, 2003

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61 RCE/1600

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<b>REQUEST FOR CONTINUED EXAMINATION (RCE) TRANSMITTAL</b>  Subsection (b) of 35 U.S.C. § 132, effective on May 29, 2000, provides for continued examination of an utility or plant application filed on or after June 8, 1995. See The American Inventors Protection Act of 1999 (AIPA).	Application Number	09/265,585
	Filing Date	March 10, 1999
	First Named Inventor	Philip N. Benfey
	Group Art Unit	1638
	Examiner Name	Stuart F. Baum
	Attorney Docket Number	57953/1115

This is a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114 of the above-identified application.  
**NOTE:** 37 C.F.R. § 1.114 is effective on May 29, 2000. If the above-identified application was filed prior to May 29, 2000, applicant may wish to consider filing a continued prosecution application (CPA) under 37 C.F.R. § 1.536(d) (PTO/SB/29) instead of a RCE to be eligible for the patent term adjustment provisions of the AIPA. See Changes to Application Examination and Provisional Application Practice, Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000); Interim Rule, 65 Fed. Reg. 14865 (Mar. 20, 2000), 1233 Off. Gaz. Pat. Office 47 (Apr. 11, 2000), which established RCE practice.

1. **Submission required under 37 C.F.R. § 1.114**

- a. ☐ Previously submitted
- i. ☐ Consider the amendment(s)/reply under 37 C.F.R. § 1.116 previously filed on JUL 30 2001  
(Any unentered amendment(s) referred to above will be entered).
- ii. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on TECH CENTER 1600/2
- iii. ☐ Other \_\_\_\_\_
- b. ☒ Enclosed
- i. ☒ Amendment/Reply
- ii. ☐ Affidavit(s)/Declaration(s)
- iii. ☒ PTO-1449 and 1 reference
- iv. ☒ Submission of Corrected Formal Drawings and 100 sheets of corrected formal drawings attached.
- v. ☒ Petition for Two-month Extension of Time

2. **Miscellaneous**

- a. ☐ Suspension of action on the above-identified application is requested under 37 C.F.R. § 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.170(i) required)

- b. ☐ Other \_\_\_\_\_

3. **Fees** The RCE fee under 37 C.F.R. § 1.17(e) is required by 37 C.F.R. § 1.114 when the RCE is filed.

- a. ☒ The Director is hereby authorized to charge the following fees, additional fees which may be required for RCE overpayments, to Deposit Account No. 14-1138
- i. ☒ RCE fee required under 37 C.F.R. § 1.17(e)
- ii. ☒ Extension of time fee (37 C.F.R. §§ 1.136 and 1.17)
- iii. ☐ Other \_\_\_\_\_
- b. ☒ Check in the amount of \$1,160.00 is enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

Name (Print/Type)	Michael L. Goldman	Registration No. (Attorney/Agent)	30,727
Signature	<i>Michael L. Goldman</i>	Date	July 25, 2003

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Signature:	<i>Jo Ann Whalen</i>
Name:	Jo Ann Whalen

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07/29/2003 SSANDARA 00000009 09265585

02 FC:1801

750.00

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